

REMARKS/ARGUMENTS

Claims 91-110 are currently pending in the present patent application. Claims 91, 96 and 110 are amended in a manner which does not alter the scope of the claims. In view of at least the following, all currently pending claims are in condition for allowance, and, therefore, the Applicants' attorney requests that the Examiner withdraw all outstanding rejections. *However, if after considering this response the Examiner does not allow all of the claims, the Applicants' attorney requests that the Examiner contact him to schedule a telephone interview to further the prosecution of this application.*

Rejection of claims 91-110 under 35 U.S.C. § 103(a) as being Unpatentable over Lau et al. (U.S. Patent No. 6,772,212, "Lau") in view of Li et al. (U.S. Patent No. 6,345,279, "Li")

Claim 91

Claim 91 recites circuitry which determines whether the format of the corresponding music track is compatible with the corresponding music renderer such that the music renderer can render music from the music track and, in response to a determination that the format is not compatible with the music renderer, reformats the music track to a format that is compatible with the music renderer.

For example, referring to FIGS. 1 and 5 and page 14 lines 6-16 of the patent application, in an embodiment a user desires to copy one or more music items from a client computer (circuitry) 104 to a music renderer device 126B. The client computer 104 determines whether the MP3 format of the corresponding music track is compatible with the music renderer 126B, which stores music items

according to a different and proprietary format. In response to its determination that the MP3 format is not compatible with the music renderer 126B, the client computer 104 reformats the music track to the proprietary format that is compatible with music renderer 126B.

Neither Lau nor Li, alone or in combination, disclose or render obvious the limitations of claim 91. As the Examiner acknowledged on page 4 of the Office Action in this matter mailed May 28, 2008 ("the Office Action"), Lau does not disclose determining whether the format of a music track is compatible with a corresponding music renderer such that the music renderer can render music from the music track and, in response to a determination that the format is not compatible with the music renderer, reformatting the music track to a format that is compatible with the music renderer.

Li does not provide the missing disclosure. First, Li does not disclose determining whether the format of a music track is compatible with a corresponding music renderer such that the music renderer can render music from the music track. Referring, *e.g.*, to column 6 lines 3-29, Li teaches a system wherein multimedia web content is optimized for delivery to a client device based upon that device's "capabilities" and "resources." "Capabilities" are defined by Li as the ability for the client device to handle a particular media type. If, for example, a device lacks an audio speaker, it has no capability to render music from a music track regardless of format. "Resources" include parameters of the device such as screen size, network bandwidth, storage capacity, wait time and payment ability. Although Li discloses optimizing media content based on those resources, it does not teach determining whether the format of a music track is compatible with the device—only whether the device can render audio at all, and whether optimization of a particular audio object is needed based on bandwidth or processor concerns. The fact that a large MP3 file should be optimized by additional data compression in order to satisfy bandwidth concerns of the client device does not implicate whether

that client device is actually “compatible” with MP3-formatted audio files.

Furthermore, Li does not disclose reformatting the music track to a format that is compatible with the music renderer in response to a determination that the format is not compatible with the music renderer. On pages 3-4 of the instant Advisory Action, the Examiner asserts that “compressing an audio file” changes the “format” of the audio file. Applicants’ attorney respectfully suggests that this is a misapprehension of the term “format” as used within the present application, as well as its common usage and the understanding of one of ordinary skill in the relevant art. For example, referencing the attached Wikipedia articles “Audio Format” and “Audio File Format” as viewed on November 18, 2008, it is clear that the term “format” as applied to digital audio storage refers to a particular audio encoding scheme or file type.¹ Instances of these formats include but are not limited to MPEG Level-3 (“MP3”), WAV, WMA, AIFF, FLAC, and AAC. The majority of these audio formats support multiple encoding parameters, such as bit rate, number of channels (mono or stereo), or sampling rate. However, one of ordinary skill in the art will appreciate that transcoding an MP3 audio file having a 320k bit rate into an MP3 audio file having a 128k bit rate does not result in an audio file with a different “format.” Both files comply with the MP3 “format” and simply possess different encoding parameters.

Referring to column 5 lines 27-62, Li discloses a number of possible changes to media objects. For audio objects, leaving aside the modality change involved in “speech recognition,” these changes are specifically limited to adjusting resolution—“bit-rate reduction, sampling rate change, stereo to mono.” Describing these changes in resolution as a change in “format” as applied to digital audio storage is

¹ See also Newton, Harry, *Newton's Telecom Dictionary, 20th Edition*, San Francisco, CMP Books (2004), 538, wherein “MP3” or “MPEG Layer-3” is discussed as an audio “format.”

inconsistent with common usage (as evidenced by the above-referenced Wikipedia articles), with the specification of the present application, and with the Li reference itself, which does not purport to alter the format of an audio file. As further evidence of the common but specific usage of the term "format," Applicants' attorney notes that on page 3 of the instant Advisory Action, the Examiner himself describes the *compression* and *format* of an audio file as two distinct qualities when he states that "its reproduction/decompression procedure differs depending upon its compression or format." Changing the compression or compression parameters of a file does not change the format of the file.

Neither Lau nor Li, alone or in combination, disclose or render obvious the limitations of claim 91—namely, determining whether the format of a music track is compatible with a corresponding music renderer such that the music renderer can render music from the music track and, in response to a determination that the format is not compatible with the music renderer, reformatting the music track to a format that is compatible with the music renderer. Applicants' attorney respectfully requests that the Examiner withdraw the rejection accordingly.

Claims 96 and 101

These claims are patentable for reasons similar to those discussed above with respect to amended claim 91.

Claims 92-95, 97-100 and 102-110

These claims are patentable at least by virtue of their respective dependencies from one of independent claims 91, 96 and 100, which are patentable for at least the reasons discussed above.

Conclusion

The absence of additional patentability arguments should not be construed as either a disclaimer of such arguments or that such arguments are not believed to be meritorious. In light of at least the reasons discussed herein, existing claims 92-95, 97-100 and 102-110 and amended claims 91, 96 and 101 are in condition for allowance. Favorable consideration and a Notice of Allowance are respectfully requested. Should the Examiner have any further questions about the application, Applicant respectfully requests the Examiner to contact the undersigned attorney at (425) 455-5575 to resolve the matter.

In the event additional fees are due as a result of this amendment, you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Respectfully submitted,

GRAYBEAL JACKSON LLP

A handwritten signature in dark ink, appearing to read "James J. Carter", is written over a horizontal dotted line.

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